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RECEIVED

October 13, 2004

OCT 13 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

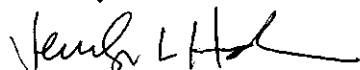
Federal Communications Commission
Office of Secretary

Re: *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri, CC Docket No. 02-112*

Dear Ms. Dortch:

Attached please find an original and four copies of Verizon's Comments and supporting materials for filing in the above-referenced docket. In attempting to file these comments via ECFS this afternoon we received error messages indicating that the attachments were too large to submit electronically. We are therefore providing copies of the supporting material on CD-Rom for inclusion in the record.

Sincerely



Jennifer L. Hoh

Attachments

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OCT 13 2004

Federal Communications Commission
Office of Secretary

In the Matter of

Extension of Section 272 Obligations
Of Southwestern Bell Telephone Co.
In The States Of Arkansas and Missouri

WC Docket No. 02-112

COMMENTS OF VERIZON¹

AT&T's petition to extend the section 272 sunset for Southwestern Bell in Arkansas and Missouri is repetitious of its previous petitions, which the Commission correctly rejected in allowing sunset to take place in several states by operation of law.² AT&T continues to argue that the Commission should extend the section 272 separate affiliate requirements until the Commission finds that the Bell Operating Companies ("BOCs") do not have market power in the local exchange market in each state. But the Act contains no such requirement, and it is contrary to the statutory presumption that the separate affiliate requirements will sunset in three years.

In its latest petition, AT&T focuses on the special access market, claiming that there is no meaningful facilities-based competition for high capacity special access services and that this gives SBC the ability to impair competition in the long distance market for enterprise customers. *See* AT&T Petition, 6-11. However, Verizon demonstrated in its October 4, 2004 comments in the

¹ The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A.

² *See, e.g., Section 272 Sunsets For SBC In The States Of Kansas And Oklahoma By Operation Of Law On January 22, 2004 Pursuant To Section 272(F)(1)*, Public Notice, 19 FCC Rcd 1747 (2004).

*Interim Order NPRM*³ proceeding that high capacity service is particularly suited to competitive supply and that it has attracted extensive competition.⁴

Attached is a copy of Verizon's filing, which shows that competing providers have deployed fiber networks wherever high-capacity demand is concentrated and that these networks are capable of and are being used to provide transport services.⁵ Competing carriers have now deployed at least one network in at least 140 of the top 150 metropolitan statistical areas ("MSAs"), and an average of 19 networks in each of the top 50 MSAs. According to competitive local exchange carriers ("CLECs"), competitive fiber now provides *direct* connections to approximately 32,000 office buildings — buildings that are connected to a CLEC's fiber ring with the CLEC's own fiber.⁶ In fact, AT&T, itself, operates 21,000 route miles of local fiber in approximately 70 MSAs.⁷

Verizon also demonstrated that the data on competitive *fiber* do not provide the full extent to which alternative loop facilities are available, because fiber is not the only technology that competing carriers can use to provide high-capacity loop services. Both fixed wireless and cable networks provide additional competition in the supply of high-capacity loops.⁸ Cable operators are providing high-capacity services to business customers both by deploying fiber to

³ Order and Notice of Proposed Rulemaking, *Unbundled Access to Network Elements*, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-179 (rel. Aug. 20, 2004) ("*Interim Order NPRM*").

⁴ See Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313, CC Docket No. 01-338, at 36-54 (filed Oct. 4, 2004) (attached hereto as Attachment B).

⁵ See *id.* at 42.

⁶ See *id.* at 47-48.

⁷ See *id.* at 42.

⁸ See *id.* at 51.

office buildings, and by extending their hybrid fiber-coax networks to business districts in order to provide cable modem services to business customers. CLECs also are rolling out broadband services using their own fixed wireless spectrum and the fixed wireless services from a number of third-party suppliers.⁹

In addition, Verizon demonstrated that CLECs are taking advantage of the competitive conditions of the market to use discounted, competitively priced special access services to serve their own end-user customers.¹⁰ Indeed, competitive conditions have resulted in substantial reductions in the effective prices these carriers pay for special access services, and they have taken full advantage of purchasing special access to supplement the use of their own facilities or facilities leased from third parties. Some carriers and a new breed of facilities aggregators have begun using special access to offer wholesale services to other competing carriers, often at substantial discounts from what Verizon offers to its retail customers.¹¹ And the enterprise segment of the market in particular is dominated by the major traditional interexchange carriers, not by the BOCs or other incumbent local exchange carriers.

Finally, the fact remains that, even when the section 272 separate affiliate requirements sunset generally, the BOCs will remain subject to continuing regulatory requirements that provide more than adequate protection for long distance competition. These include the section 272(e) requirements that (1) the BOCs fulfill requests from unaffiliated entities for exchange access services within a time period no longer than the period in which they provide such services to themselves or their affiliates; and (2) the BOCs charge their affiliates or impute to themselves no

⁹ *See id.* at 52.

¹⁰ *See id.* at 38-41.

¹¹ *See id.* at 39.

less than the amounts for exchange access services that they charge to unaffiliated interexchange carriers for such services.

These data clearly refute AT&T's claims that, in the vast majority of cases, there are no alternatives to the BOCs' special access facilities and that this gives the BOCs the ability to inhibit competition in the long distance market. For these reasons, the Commission should once again reject AT&T's attempts to extend the section 272 separate affiliate requirements.

Respectfully submitted,

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Of Counsel
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Attorneys for the Verizon
telephone companies

Dated: October 13, 2004

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment B

**Excerpts from Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313,
CC Docket No. 01-338 (filed Oct. 4, 2004)**

Part 1: Redacted Comments and Tabs B, C & E

Submitted on enclosed CD ROM

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment B

Excerpts from Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313, CC Docket No. 01-338 (filed Oct. 4, 2004)

**Part 2: Tabs H: High-Capacity Facilities and Services Maps
Tabs 1-10**

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment B

Excerpts from Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313, CC Docket No. 01-338 (filed Oct. 4, 2004)

**Part 3: Tabs H: High-Capacity Facilities and Services Maps
Tabs 11-20**

Submitted on enclosed CD ROM

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment B

**Excerpts from Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313,
CC Docket No. 01-338 (filed Oct. 4, 2004)**

**Part 4: Tabs H: High-Capacity Facilities and Services Maps
Tabs 21-30**

Submitted on enclosed CD ROM

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment B

**Excerpts from Comments of Verizon, *Unbundled Access to Network Elements*, WC Docket No. 04-313,
CC Docket No. 01-338 (filed Oct. 4, 2004)**

**Part 5: Tabs H: High-Capacity Facilities and Services Maps
Tabs 31-40**

Submitted on enclosed CD ROM

Comments of Verizon, *Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri*, WC Docket No. 02-112 (filed Oct. 13, 2004)

Attachment C

***UNE Fact Report 2004*, WC Docket No. 04-313,
CC Docket No. 01-338 (filed Oct. 4, 2004)**

Submitted on enclosed CD ROM